

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT  
State: FLORIDA

ELIGIBILITY CONDITIONS AND REQUIREMENTS

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Process for the Investigation of Allegations of Resident Neglect  
and Abuse and Misappropriation of Resident Property

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The State has in effect the following process for the receipt and timely review, and investigation of allegations of neglect, abuse, and misappropriation of resident property by a nurse aide or a resident in a nursing facility or by another individual used by the nursing facility to provide services to residents.

Complaints may originate from a variety of sources, including anonymous telephone calls and letters from complainants that are received at the Central Complaint Unit under the Office of External Affairs, Consumer Services; referrals from the Division of Health Quality Assurance Area Offices; referrals from other governmental agencies; referrals from HCFA. Complaints are reviewed, logged, and tracked through the centralized complaint unit. Complaints, including misappropriation of residents property, are assigned to the respective Division of Health Quality Assurance Area Office for investigation. Upon the Area Office receipt of a complaint from the Central Complaint Unit, a surveyor is assigned to conduct an unannounced investigation of the complaint. An investigative report of findings is completed and forwarded to the Central Complaint Unit. The Central Complaint Unit staff review the report for compliance with state and federal reporting requirements. Data for certified facilities are entered into the federal data system. In the event a facility is cited for a violation of regulations, a follow-up visit will be conducted to ascertain that the signed plan of correction is carried out.

As required under Chapter 415, Florida Statutes, Adult Protective Services Act, allegations that allege abuse, neglect, or exploitation are referred to the Florida Protective Services System. Protective Services staff respond to allegations of abuse and neglect within 24 hours of receipt of the complaint. However, staff respond immediately, e. g., to allegations of severe physical abuse of a life threatening manor, sexual abuse that occurred within the last 72 hours, or if the perpetrator of sexual abuse is still at the facility. The investigative process provides ample time for the alleged person to respond to allegations or protest findings through an administrative hearing.

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When a report is closed as proposed confirmed, the alleged perpetrator is sent a certified letter informing him of this classification and explaining his rights of appeal and review. If the alleged perpetrator believes that an error has been made, or he feels that he is not responsible for the abuse, neglect, or exploitation described in the report, he may:

- \* submit a statement or rebuttal letter explaining the incident and why he believes the report is in error. This statement or rebuttal letter is not the same as a request to amend or expunge the report but will be placed in the file to become part of the record; or
- \* request, within 60 days of receipt of the notification letter, that the department amend or expunge the report.

The department has 30 days from receipt of the request to conduct a review of the investigation and act on the alleged perpetrator's request to amend or expunge the report. The alleged perpetrator is notified by mail of the department's decision.

If the department fails to act within the 30 days allowed, or denies the request for amendment or expunction, the alleged perpetrator then has 30 days to request an administrative hearing. The request for an administrative hearing is accomplished by filing a petition.

The hearing officer recommends that the department either amend or expunge the report or reclassify the report as confirmed. A final order informing the alleged perpetrator of any changes made to the report as a result of the hearing is then issued.

If the alleged perpetrator receives the classification letter and then does nothing, his right to appeal the classification of the report is barred and the report is automatically classified as confirmed. This means that the alleged perpetrator does not contest the department's right to maintain the report findings as stated, including the alleged perpetrator's identification as a perpetrator. A perpetrator in a confirmed report of abuse, neglect, or exploitation may be disqualified from working in certain positions of trust, including working with children, disabled adults, or aged persons.

In accordance with the provisions of Chapter 415, Florida Statutes, if the certificate of a nurse aide is suspended as a result of abused, neglected, or misappropriation of the property of a resident, the aide is notified in writing and the name of that individual is submitted to the Department of Education for appropriate action. Pursuant to section 400.211, Florida Statutes, the Department of Education notes that on the nurse aide registry. The names of other individuals whose licenses have been suspended as a result of abused, neglected, or misappropriation of a resident's property are submitted to the appropriate licensure authority such as the Department of Professional Regulation.

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